

UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF NEW HAMPSHIRE

James and Sue Scott, and  
Stephen and Ellen St. Louis

v.

Civil No. 06-cv-286-JD

First American Title  
Insurance Company

PROCEDURAL ORDER

James and Sue Scott and Stephen and Ellen St. Louis brought claims against First American Title Insurance Company, on their own behalf and on behalf of a putative class, alleging breach of the duty of good faith and fair dealing and unjust enrichment. The parties have filed a joint motion for preliminary approval of their settlement, which includes class certification and approval of the proposed settlement. Their brief motion does not address the requirements of Federal Rule of Civil Procedure 23(e) or the heightened scrutiny applied to certification of a settlement only class. See, e.g., Ortiz v. Fibreboard Corp., 527 U.S. 815, 848-49 (1999); Amchem Prods., Inc. v. Windsor, 521 U.S. 591, 619-24 (1997); Int'l Union v. Gen. Motors Corp., 497 F.3d 615, 624 (6th Cir. 2007); In re Community Bank of N. Va., 418 F.3d 277, 299 (4th Cir. 2005); In re New Motor Vehicles Canadian Import Antitrust Litigation, 236 F.R.D. 53, 56 (D. Me. 2006).

Therefore, the parties shall file a memorandum in support of their motion for approval of the proposed settlement that meets the requirements of Rule 23(e) and for certification of a settlement class. The memorandum shall be filed on or before **November 1, 2007**. Because the court will not address the pending joint motion absent additional briefing, the motion will be denied without prejudice if the supporting memorandum is not filed within the time allowed.

SO ORDERED.

  
Joseph A. DiClerico, Jr.  
United States District Judge

October 15, 2007

cc: Christopher D. Baucom, Esquire  
Elizabeth T. Ferrick, Esquire  
Wilbur A. Glahn, III, Esquire  
Douglas W. King, Esquire  
Charles A. Newman, Esquire  
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